REMARKS

Summary of the Office Action

In the Office Action, the Examiner objected to the possible incorporation of essential material in the specification by reference to a foreign application.

Claims 1-6, 8 and 10-12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Zhong et al* (U.S. Patent No. 6,365,916) in view of *Narita, et al* (U.S. Patent No. 5,555,114).

Claims 7, 9 and 13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Zhong* in view of *Narita*, and further in view of *Kadota et al* (U.S. Patent No. 5,818,550).

Summary of the Response to the Office Action

Applicant traverses the objection to the specification and the rejection of all pending claims.

Accordingly claims 1-13 remain pending for further consideration.

The Objection to the Specification

In the Office Action, the Examiner asserts that the incorporation of essential material in paragraph [0001] of the specification by reference to a foreign application is improper.

Applicant respectfully traverses this interpretation for at least the following reasons. In particular, M.P.E.P. § 608.01(p)(I)(A) reminds that "[n]onessential subject matter may be incorporated by reference to (1) patents or applications published by the United States or foreign countries or regional patent offices." Applicant respectfully submits that the material incorporated by reference in paragraph [0001] of the specification is a patent application filed in

a foreign patent office and qualifies as nonessential subject matter. Thus, Applicant respectfully submits that the material incorporated by reference is proper.

Moreover, Applicant respectfully submits that the disclosure, as originally-filed, includes essential materials which is necessary to (1) describe the claimed invention, (2) provide an enabling disclosure of the claimed invention, or (3) describe the best mode (35 U.S.C. § 112). Accordingly, Applicant further respectfully submits that the disclosure, as originally-filed, is complete in itself and the material incorporated by reference is thus proper.

In light of the amendment to the specification and the foregoing explanations, Applicant respectfully requests that the objection to the specification be withdrawn.

The Rejections Under 35 U.S.C. § 103(a)

Claims 1-6, 8 and 10-12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Zhong et al* (U.S. Patent No. 6,365,916) in view of *Narita, et al* (U.S. Patent No. 5,555,114). Claims 7, 9 and 13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Zhong* in view of *Narita*, and further in view of *Kadota et al* (U.S. Patent No. 5,818,550). Applicant respectfully traverses the objection for at least the following reasons.

Zhong et al does not qualify as a prior art reference. Applicant respectfully submits that the present invention and *Zhong et al* were subject to an assignment to LG.Philips LCD Co., Ltd. at the time of invention for the present application. Therefore, the present invention and *Zhong et al* were both subject to an assignment to the same entity, i.e., LG.Philips LCD, from the date of the present invention. Such common ownership invokes the provisions of new 35 U.S.C. §

103(c) to disqualify *Zhong et al* as a prior art reference. *Zhong et al* forms the basis for the Examiner's rejections of all currently pending claims. Accordingly, Applicant respectfully submits that the Examiner is required to withdraw all outstanding rejections under 35 U.S.C. § 103(a). To the extent the Examiner continues to reject the claims over the references of record, the following is presented.

No Motivation to Combine

Zhong et al teaches the use of a backlight in its LCD. (*Zhong et al*, col. 2, ll. 2-8.) Further, as admitted by the Examiner, *Zhong et al*, although directed to an LCD, does not disclose a cholesteric liquid crystal. Therefore, the Examiner relies on *Narita et al* for this teaching. While *Narita et al* discloses a cholesteric liquid crystal, it teaches away from use of backlighting as causing an increase in the thickness of size and power consumption of the display and degrading the merits of an LCD. (*Narita et al*, col. 1, ll. 35-40.) Hence, there is no motivation to combine the teachings of *Zhong* with *Narita* because *Narita* teaches away from the use of backlighting, while *Zhong* relies upon it. A combination of these references, if possible, would result in an inoperative device and/or a device not useable in accordance with its intended

LCD of *Zhong* is to arrive at the features of the present claims. Such improper use of references is the definition of impermissible hindsight.

Applicant respectfully submits that independent claims 1 and 8 fully comply with the requirements of 35 U.S.C. § 103(a). Furthermore, Applicant respectfully asserts that dependent claims 2-7 and 9-12 are allowable at least because of their dependence of claims 1 and 8.

respectively, and the reasons set forth above. Accordingly, Applicant respectfully requests that the rejections under 35 U.S.C. § 103(a) be withdrawn.

CONCLUSION

In view of the foregoing, Applicant respectfully requests reconsideration and timely allowance of the pending claims. Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicants' undersigned representative to expedite prosecution.

EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of times fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully Submitted,
Morgan, Lewis & Bockius LLP

Date: May 12, 2003 By: _____
Angela S. Robinson
Registration No. 52,174

Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Tel. No.: 202-739-3000
Fax No.: 202-739-3001